

Indiana Department of Education

Division of Special Education

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1822.01
COMPLAINT INVESTIGATOR: Brian Simkins
DATE COMPLAINT: November 7, 2001
DATE OF REPORT: December 7, 2002
REQUEST FOR RECONSIDERATION: yes
DATE OF REVISED REPORT: February 6, 2002¹ (revisions to the original report are underscored)
DATE OF CLOSURE: April 1, 2002

COMPLAINT ISSUE:

Whether the Indiana Department of Correction (IDOC) and the North Central Juvenile Correctional Facility (NCJCF) violated:

511 IAC 7-27-3 by failing to include all required participants at case conference committee meetings convened subsequent to June 7, 2001.

FINDINGS OF FACT:

1. The students (the "Students") are incarcerated in a state juvenile correctional facility (the "Facility") where they receive educational services. The students are eligible for special education and related services.
2. The Facility was the subject of complaint investigation #1730.01. One of the conclusions of the investigation was that the Facility was not including all required case conference committee ("CCC") participants. The report went out on June 7, 2001. This investigation looks at only those CCCs conducted since that time.
3. One of the corrective actions in complaint #1730.01 required the Facility to develop a new policy and procedures to ensure all required participants are at CCC meetings. The Complainant alleges that the Facility is not adhering to this portion of the corrective action.
4. The Complainant alleges that the teacher of record (TOR) for Student JF was not present at the CCC convened on July 30, 2001. The notice of the CCC was sent to the TOR and the educational surrogate parent on July 13, 2001. The purpose of the CCC meeting was the Student's annual case review. On July 24, 2001, the TOR sought and received approval for vacation time from July 27 through July 30, 2001. The TOR reviewed the Student's records on July 25, 2001, prepared notes about the Student's work style, current performance, progress, and emotional status, and submitted these notes to the special education coordinator for the CCC's consideration. The special education

¹ The original deadline for responding to the request for reconsideration was January 7, 2002. On January 4, 2002, the deadline was extended to February 6, 2002, in order to conduct on-site interviews and record reviews.

coordinator is licensed in the area of the Student's disability, but served as the public agency representative for the CCC. The TOR may not serve as the public agency representative for the CCC meeting. A general education teacher is listed as the TOR's substitute for the CCC meeting.

5. The Complainant alleges that the TOR for Student JS was not present at the CCC convened on November 30, 2001. The purpose of the CCC meeting was to determine the Student's eligibility for special education. The CCC Report/IEP indicates that the TOR was not present due to illness. The TOR confirms that she was ill on the day of the scheduled CCC meeting, but reports that, due to previous scheduling difficulties, the parent wished to convene the CCC in the TOR's absence. The TOR provided input to the special education coordinator for the CCC's consideration. No substitute for the Student's TOR is identified in the CCC Report/IEP. The special education coordinator is licensed in the area of the Student's disability, but served as the public agency representative for the CCC.
6. The Complainant alleges that neither the parent nor the special education teacher was present at the CCC meeting for Student DB on November 6, 2001. On October 29, 2001, facility staff made telephone contact with the parent. The contact log states "called to set CC. Set for 11-06-01 at 10:30 A. by phone." On October 31, 2001, the facility sent the parent a notice of November 6th CCC meeting. The parent resides in the southern part of the state. The notice requested that the parent indicate whether she will: (a) attend in person or by phone, (b) not attend, (c) call to arrange for another meeting time, or (d) requests that the CCC be convened in her absence. The notice requests that the parent respond by returning the form no later than November 2, 2001. The parent was not present in person or by telephone for the CCC meeting, and there is nothing in the CCC Report to indicate the reason for the lack of participation. The parent's response to the notice is dated November 15, 2001, and indicates that the CCC needs to be rescheduled. The Student's TOR attended the CCC meeting.
7. The Complainant alleges Student JG did not attend the CCC meeting on September 24, 2001. The Student has attained the age of majority. The CCC Report/IEP contains the Student's signature, indicating his presence at the CCC meeting.

CONCLUSION:

511 IAC 7-27-3 requires a CCC meeting to include the following participants: (1) public agency representative other than the student's teacher of record; (2) the student's teacher of record; (3) a general education teacher if the student is or is anticipated to be participating in general education; and (4) the student's parent if the student is under age 18. If the student is age 18 or older, the student is a required participant. Findings of Fact #2 through #7 reflect that, in the situations cited, some of the CCC meetings have not had the required participants present. Findings of Fact #4 and #5 indicate that the TOR was not present at the CCC convened on July 30, 2001, for Student JF or the CCC convened on November 30, 2001, for Student JS. Finding of Fact #6 demonstrates that the CCC convened on November 6, 2001, for Student DB failed to include the Student's parent. Although 511 IAC 7-27-3(h) permits a CCC to convene without the parent, it may be done only when the parent chooses not to participate, and the facility must be able to document the extent of its attempts (i.e., telephone contacts, correspondence, and visits) to arrange the CCC at a mutually agreed upon date, time. Finding of Fact #6 reflects facility staff made telephone contact with the parent on October 29, 2001, and followed up with a written notice on October 31, 2001 (Wednesday). The parent was given until November 2, 2001, two days from the date of the notice, to respond regarding a CCC to be conducted the following Tuesday (November 6, 2001). The parent's response, although received after the CCC was held, was to request that the CCC be rescheduled. The CCC should not have been convened in the parent's absence. Therefore, a violation of 511 IAC 7-27-3 is found with respect to CCCs convened for Students JF, JS, and DB.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Indiana Department of Correction and the North Central Juvenile Correction Facility shall:

1. If Student DB is still detained at NCJCF, send a letter to the Student's parent offering to convene a CCC at a date and time convenient to the parent to provide the parent the opportunity to participate in a discussion of the Student's educational program and progress to date. The letter shall allow the parent a reasonable period of time from her receipt of the letter to respond and shall advise that she may participate in the CCC meeting via telephone. If the parent does not respond within the time frame provided, the special education coordinator shall contact the parent to determine if the parent wishes to reconvene the CCC. A copy of the letter sent to the parent, the parent's response, and documentation of any telephone contact with the parent shall be submitted to the Division no later than March 15, 2002.
2. Review and revise Operational Directive NCJ-01-07-01 to include a procedures for rescheduling a CCC when the TOR or other required participant is unable to attend a previously scheduled CCC. The procedure may include a provision for the individual to participate by telephone. The procedures may differ for initial CCC meetings (those that must be conducted within 10 instructional days of the student's admission to the facility) and CCC meetings subsequent to the initial meeting. A copy of the revised directive shall be submitted to the Division no later than March 15, 2002, along with documentation that each teacher of record has received a copy of the revised directive.
3. Review and, if necessary, revise current directives or procedures regarding the provision of adequate written notice to parents regarding a scheduled CCC meeting. The procedures shall ensure that the notice "is provided early enough to allow a change in time or location, to make arrangements to attend a meeting, or to allow a response prior to the proposed action." A copy of the directive or procedure shall be submitted to the Division no later than March 15, 2002.